

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

HELENA DIVISION

**FILED**

JUN 11 2018

Clerk, U.S. District Court  
District Of Montana  
Helena

GENET McCANN,

Plaintiff,

No. CV 18-42-H-SEH

vs.

**ORDER**

The Supreme Court of the State of Montana; Chief Justice Mike McGrath, in his official capacity as Chief Justice of the Montana Supreme Court;

The COMMISSION ON PRACTICE of the Supreme Court of the State of Montana; Ward Taleff, in his official capacity as Chairman of the Commission On Practice; Tracy Axelberg, in his official capacity as Vice Chairman of the Commission On Practice;

OFFICE OF THE STATE DISCIPLINARY COUNSEL, Michael Cotter Chief Disciplinary Counsel, in his official capacity,

Defendants/Respondents.

This action was commenced on March 23, 2018.<sup>1</sup> An amended complaint

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<sup>1</sup> Doc. 1.

was filed on April 11, 2018.<sup>2</sup> Defendants moved to dismiss<sup>3</sup> with supporting brief<sup>4</sup> on May 3, 2018.

On June 5, 2018, the Montana Supreme Court issued its order in Supreme Court Cause PR 16-0635. A Nunc Pro Tunc Order followed on June 6, 2018.

The June 6, 2018, Nunc Pro Tunc Order in Cause PR 16-0635 recited, in part:

2. Genet McCann is hereby disbarred from the practice of law in Montana, effective thirty days from the effective date of this Order. McCann is directed to give notice of her disbarment to all clients she represents in pending matters, any co-counsel in pending matters, all opposing counsel and self-represented opposing parties in pending matters, and all courts in which she appears as counsel of record in pending matters, as required by Rule 30, MRLDE.

3. McCann is ordered to pay the costs of these proceedings subject to the provisions of Rule 9(A)(8), MRLDE, allowing objections to be filed to the statement of costs.<sup>5</sup>

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<sup>2</sup> Docs. 7 and 8. The amended complaint, titled by Plaintiff McCann “Verified Amended Complaint for Declaratory and Injunctive Relief,” exceeded 70 pages in length and incorporated by reference some 61 exhibits, many with numerous subparts. Named as Defendants were the Supreme Court of the State of Montana and the Chief Justice in his official capacity, the Commission on Practice and two of its officers in their official capacities, and the Office of Disciplinary Counsel and Chief Disciplinary Counsel in his official capacity.

<sup>3</sup> Doc. 12.

<sup>4</sup> Doc. 13.

<sup>5</sup> Nunc Pro Tunc Order at 6, *In the Matter of Genet McCann*, No. PR 16-0635 (Mont. S. Ct. June 6, 2018).

The Nunc Pro Tunc Order included the additional statement: “The effective date of this Nunc Pro Tunc Order is June 5, 2018.”<sup>6</sup>

This Court has no jurisdiction to undertake or address consideration of any claim McCann asserted against the Montana Supreme Court, the Commission on Practice or the Office of Disciplinary Counsel in this case. In two separate but related actions previously filed by McCann, this Court has held: “(1) [] disciplinary proceedings are *sui generis* and are neither civil [nor] criminal in character; (2) [] the Montana Supreme Court has [exclusive] jurisdiction over matters related to discipline of lawyers licensed to practice in Montana; [and] (3) [] such matters are beyond and outside the jurisdiction of this Court” to address.<sup>7</sup>

The court finds it unnecessary to address other grounds, apart from this Court’s lack of jurisdiction, which would warrant dismissal.

ORDERED:

1. This case is DISMISSED for lack of jurisdiction.
2. Any and all other pending motions are DENIED as moot.

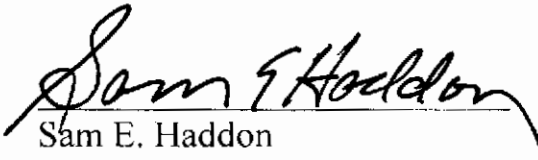
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<sup>6</sup> Nunc Pro Tunc Order at 6, *In the Matter of Genet McCann*, No. PR 16-0635 (Mont. S. Ct. June 6, 2018).

<sup>7</sup> Doc. 9 at 3, CV 18-02-H-SEH; Doc. 8 at 3, CV 18-03-H-SEH.

3. The clerk is directed to enter judgment of dismissal and close the case.

DATED this 11<sup>th</sup> day of June, 2018.

  
Sam E. Haddon  
United States District Judge